

REMARKS

I. Status of Application

By this Amendment, Applicant adds new dependent claim 15. As such, claims 1-15 are all the claims pending in the Application. New claim 15 does not introduce any new matter and is fully supported throughout the specification.

The Examiner has rejected claim 1-14 in the first non-final office action following the Request for Continued Examination (RCE) of January 22, 2008.

II. Claim Rejections Under 35 U.S.C. § 103

Claims 1-11, 13, and 14

The Examiner has rejected claims 1-11 and 13-14 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wittmann et al. (AMnet: Active Multicasting Network) (hereinafter “Wittmann”), in view of U.S. Patent No. 6,393,474 to Eichert et al. (hereinafter “Eichert”), in view of Alexander et al. “Active Network Encapsulation Protocol (ANEP)” (hereinafter “Alexander”). Applicant respectfully submits the following in traversal.

Claim 1

Regarding claim 1, Applicant respectfully submits that Wittmann fails to disclose, *inter alia*, “sending a reservation packet comprising a request for reservation of resources constituting an execution environment **for the active data flow**,” “wherein an active data flow comprises a **set of active packets executed by the execution environment**.” The Examiner appears to be taking the position that the QoS filters of Wittmann correspond to the resources that are reserved in claim 1. Assuming *arguendo* that this is valid, the QoS filters in Wittmann are reserved for the incoming **data streams**, such as video streams. *See* Wittmann pg. 897. Such data streams in Wittmann are not active packets that can be executed but rather passive data streams that are

processed using filters. *See* Wittmann pgs. 898-99; Wittmann FIG. 3. As such, the reservation of resources in Wittmann is not for “an **execution environment for the active data flow**,” as recited in claim 1. For at least these reasons, Applicant respectfully submits that Wittmann cannot be used as the primary reference in rendering claim 1 obvious.

Further regarding claim 1, the Examiner concedes that Wittmann does not teach or suggest that “the active packet format comprises an indicator that indicates that the active packet comprises executable code or identifies a server from which an executable code is downloadable.” *See* Office Action pg. 3. The Examiner, however, contends that Eichert and Alexander teach these unique features of claim 1. Applicant respectfully submits that the cited references do not teach or suggest at least these features of claim 1 for at least the following reasons.

The Examiner contends that “[t]he general concept of an active node receiving code in an active packet reserving policy is well known in the art as taught by Eichert.” Office Action pg. 3. Applicant respectfully submits that, contrary to the Examiner’s assertion, Eichert does not teach the general concept of an “active packet **reserving** policy.” In Eichert, “policy” is defined as “instructions or rules that define how the network device should **behave** when confronted with a particular situation.” *See* Eichert col. 2 lines 18-20 (emphasis added). The content of the active packet uses available services to enforce the policy. *See* Eichert col. 3 lines 14-32. In Eichert, “management station software provides the system administrator with resources to input a list of rules describing the policy to be enforced on a network.” Eichert col. 3 lines 42-44. Eichert does not teach that this policy provides for the “reservation of resources,” as recited in claim 1, only that the policy is given resources by the management station software to instruct

the behavior of the network device in particular situations. Indeed, Eichert nowhere discusses **reserving** anything.

The Examiner continues to contend that “[t]he general concept of a policy reservation packet identifying a server and code to download and execute from the server is well known in the art as taught by Eichert.” Office Action pg. 4. Applicant respectfully submits that, contrary to the Examiner’s assertion, Eichert does not teach that the policy or the active packet “identifies a server from which an executable code is downloadable,” as recited in claim 1. Instead, Eichert discloses that, if the active packet does not have the implementing code, “the enforcement device obtains the code from a distributed database or directory, or another enforcement device, or similar memory device.” *See* Eichert col. 3 lines 6-13. Contrary to the Examiner’s position, Eichert does not teach that “the active packet may just inform the device where the packet may be found.” *See* Office Action pg. 4. That is, the packet in Eichert does not contain information on **where** the database, directory, other enforcement device, or similar memory device **is located**. Eichert only discloses that the “implementing code” is obtained **from elsewhere**, not that the information regarding the location from which the code is obtained is found in a particular place. *See* Eichert col. 3 lines 6-13. For at least these reasons, Applicant respectfully submits that Eichert fails to teach or suggest at least these unique features of claim 1.

The Examiner also concedes that Wittmann and Eichert fail to teach or suggest that “the active packet format comprises an indicator that indicates that the active packet comprises executable code,” but contends that Alexander teaches the concept of a packet containing code that indicates that the packet contains executable code. *See* Office Action pg. 4. Applicant respectfully submits that Alexander does not teach or suggest at least these unique features of claim 1 for at least the following reasons.

Alexander discloses that the payload of an active network frame can contain programs that are executed by active network nodes. *See* Alexander pg. 1 (“Introduction”). In Alexander, the header of an active network encapsulation protocol (“ANEP”) can specify authentication, confidentiality, or integrity options. *See* Alexander pg. 1 (“Introduction”). The Alexander reference only “describes the syntax and semantics of ANEP.” *See* Alexander pg. 1 (“Introduction”). That is, Alexander only addresses active network frames and the format of their headers. Alexander does not address non-active network frames. Because in Alexander only network frames that are active (and thus contain executable code) are discussed, there is no need for “an indicator that indicates that the active packet comprises executable code,” as recited in claim 1.

Nonetheless, even assuming *arguendo* that Alexander does not deal exclusively with active network frames that contain executable code, Applicant respectfully submits that the active network header taught by Alexander does not contain an “indicator that indicates that the active packet comprises executable code,” as recited in claim 1. Instead, Alexander discloses that the active network header specifies “the environment in which it is intended to be evaluated” and “information that does not fit conceptually or pragmatically in the encapsulated program (such as security headers).” *See* Alexander pg. 2 (“Raisons d’etre”). For example, the options that can be specified in the header can determine “[h]ow the active node handles the Option Payload.” *See* Alexander pg. 4 (“Options”). Options include the source identifier (“a value which uniquely identifies the sender of the packet within the active network”), the destination identifier (“a value which uniquely identifiers [sic] an ultimate destination of the packet within the active network”), an integrity checksum (“the 16 bit one’s complement of the one’s complement sum of the entire ANEP packet”), non-negotiated authentication (“a 32 bit value

which identifies the authentication scheme in use, followed by that scheme's data"), and a reserved security parameter option. *See Alexander* pgs. 5-6 ("Defined Options"). Applicant respectfully submits that *Alexander* does not teach or suggest that the header contains any "indicator that indicates that the active packet comprises executable code," as recited in claim 1.

For at least these reasons, Applicant respectfully submits that Wittmann in view of Eichert and Alexander fails to teach or suggest the unique features of claim 1, and that claim 1 and claims dependent from claim 1 are thus patentable.

Claims 2-11, 13, and 14

Applicant respectfully submits that claims 2-11, 13, and 14, which are ultimately dependent from independent claim 1, are patentable at least by virtue of their dependency from claim 1. Applicant also respectfully submits that claims 2-11, 13, and 14 are patentable at least because of the additional features recited therein, examples of which follow.

Regarding Applicant's arguments with respect to claim 3, the Examiner accepts that "Wittmann discloses that the RESV ... **has two different types of packets**, RESV packets and PATH packets," but nonetheless maintains the rejection of claim 3. *See Office Action* pgs. 8-9 (emphasis added). Applicant respectfully submits that, accepting the Examiner's own assertion, the rejection of claim 3 over Wittmann should not stand.

Claim 3 recites that "said reservation packet is a PATH type packet in accordance with RSVP protocol." Wittmann discloses, however, that "[a] soft state is created and periodically refreshed **by PATH and RESV messages**." Wittmann pg. 899 col. 1 (emphasis added). In Wittmann, the PATH and RESV messages are **two different categories of messages**. That is, in Wittmann the RESV messages cannot be of a PATH type message because they are separate types of messages. In other words, even assuming *arguendo* that the RESV messages of

Wittmann correspond with the “said reservation packet” of claim 3, the RESV messages of Wittmann cannot be a PATH type message because they are of **distinct** types. As such, Applicant respectfully submits that Wittmann cannot disclose that “said reservation packet is a **PATH type packet**,” as recited in claim 3.

Claim 12

The Examiner has rejected claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Wittmann, Eichert and Alexander as applied to claim 1, and further in view of Applicant’s Admitted Prior Art. Applicant respectfully submits that claim 1 is patentable over Wittmann, Eichert, and Alexander for at least the reasons submitted above, and that Applicant’s Admitted Prior Art fails to cure the deficiencies of the cited references. As such, Applicant respectfully submits that claim 12, which is dependent from claim 1, is patentable at least by virtue of its dependency from claim 1.

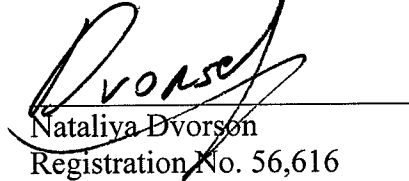
III. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

This Application is being filed via the USPTO Electronic Filing System (EFS).

Applicants herewith petition the Director of the USPTO to extend the time for reply to the above-identified Office Action for an appropriate length of time if necessary. Any fee due under 37 U.S.C. § 1.17(a) is being paid via the USPTO Electronic Filing System (EFS). The USPTO is also directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Nataliya Dvorson
Registration No. 56,616

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: August 26, 2008